

August, 2015

Dear School District Administrator:

Over the past few years there has been a rapid increase in online (virtual) education options for students. Although online educational options go by many names – online courses, online programs, blended programs, virtual schools, virtual charter schools – the only online option defined in state law is a virtual charter school, defined as follows:

115.001 (16) VIRTUAL CHARTER SCHOOL. “Virtual charter school” means a charter school under contract with a school board under s. 118.40 in which all or a portion of the instruction is provided through means of the Internet, and the pupils enrolled in and instructional staff employed by the school are geographically remote from each other.

As a result, online/virtual schools and programs generally fall into one of three categories:

- Schools that offer online courses or programs that are neither charter schools nor virtual charter schools. Such schools are required to meet all state standards, including the required hours of instruction. These schools may only accept open enrolled students who are required to physically attend a school located within the boundaries of the nonresident school district during all the days and hours that a school is in session.
- Charter schools that offer online courses or programs, but are not virtual charter schools. These schools are exempt from state laws that do not specifically apply to charter schools. However, these schools may also only accept open enrolled students who are required to physically attend a school located within the boundaries of the nonresident school district during all the days and hours school is in session, including online courses.
- Virtual charter schools have specific statutory requirements in addition to those that specifically apply to charter schools. Virtual charter schools may accept open-enrolled students who are geographically remote from instructional staff and are not required to physically attend a school located within the boundaries of the nonresident school district.

Although we have addressed many of these issues previously (September 2009, June 2010, December 2010, June 2012, and September 2012), we continue to receive questions and concerns about various practices in some online programs. A number of these inquiries pertain directly to the use of state and local tax dollars to pay for education that may possibly not meet state laws and standards.

We have also reviewed some web sites and found that some schools that identify themselves as virtual charter schools are, in fact, unfortunately not adhering to all state laws.

Some examples of our concerns include:

- Designating a school as a virtual charter school or online program as a way to draw home-schooled students into the open-enrollment program while, for all practical purposes, the student continues to attend a home-school directed and operated by the parent with minimal or no involvement of instructional staff.

Please note that under s. 118.53 (the state statute related to attendance in a public school district by students enrolled in a home-based private educational program) students enrolled in a home-school may attend up to two courses at a public school if they meet the standards for admission and if the district determines there is room in the classroom. Students attending under s. 118.53 continue to be enrolled in a home-school and cannot be dually enrolled in a public school. Non-resident home-schooled students must physically attend the courses in the district unless the courses are at a virtual charter school.

Payment for home-schooled pupils is as follows:

Resident – FTE calculation based on hours attended

Non-resident – 0.25 FTE per course, up to two courses per semester

- In virtual charter schools, delegating to parents the responsibilities of instructional staff specified in s. 118.40(8)(c), such as:
  - Requiring or allowing parents to plan instruction, without direction from instructional staff.
  - Requiring or allowing parents to diagnose learning needs, without direction from instructional staff.
  - Requiring or allowing parents to prescribe content delivery through class activities, without direction from instructional staff.
  - Requiring or allowing parents to assess learning, including creation, administration and grading of tests, as well as issuance of grades and/or recommending grades to the appropriate instructional staff member.
  - Requiring or allowing parents to report outcomes to instructional staff and administrators, in violation of the requirement for instructional staff to report those outcomes to parents and administrators.
- In online programs or schools that are not virtual charter schools:
  - Allowing open-enrolled students to attend an online school or program that is not a virtual charter school in lieu of physical attendance at a school located within the boundaries of the nonresident school district during all the days and hours that school is in session.
  - Failure to ensure that instruction is provided by instructional staff members who are appropriately licensed as required in s. 118.40(8)(b).

- In online programs that are neither charter schools nor virtual charter schools, failing to meet the hours of direct student instruction required in s. 121.02(1)(f) and failing to ensure that instruction is provided by licensed staff.

If there are situations the department finds to be in violation of state law, we will make the appropriate adjustments to the school district's membership calculations for state general aid and revenue limit purposes if necessary. These adjustments could include disallowing students from membership reports, including those open enrollment students who may attend elsewhere. In addition, the department may withhold open enrollment aid transfers for students who are enrolled in virtual/online programs that are not virtual charter schools, as defined in s. 115.001(16).

If you have additional questions, please contact Lisa Geraghty, Online Learning Consultant, School Management Services, by telephone at (608) 266-5728, or by email at [elisabeth.geraghty@dpi.wi.gov](mailto:elisabeth.geraghty@dpi.wi.gov). You may also review our Online Learning Guide found here: [sites.google.com/a/dpi.wi.gov/online/home](http://sites.google.com/a/dpi.wi.gov/online/home).

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Pahnke", with a stylized flourish at the end.

Brian Pahnke, Assistant State Superintendant  
Division for Finance and Management